

IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE NINTH DAY OF JUNE
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE B.PRAKASH RAO

WRIT PETITION NO.20511 of 1994

Between:

Zameeruddin , S/o Qazimali,
R/o Nalakunta, Hyderabad.

...PETITIONER

AND

- 1 Government of A.P., Rep by Principal Secretary,
Revenue Department, Secretariat Buildings,
Hyderabad.
- 2 The Special Officer & Competent Authority,
Urban Land Ceilings, Hyderabad.

...RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue an appropriate writ order or direction, more particularly one in the nature of writ of Mandamus, declaring the action of the respondents in directing the petitioner to surrender/delivery possession of the house bearing No.19-2-24/26/2 situated at Alibagh, Hyderabad admeasuring to 122 square yards in pursuance of the notice dated 22.10.94 of the 2nd respondent as illegal arbitrary and violative of principles of natural justice and fair play and set aside the same.

Counsel for the Petitioner: MR.S.ASHOK ANAND KUMAR

Counsel for the Respondents: GP for Revenue.

The Court made the following :

ORDER:

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This writ petition is filed seeking a writ of mandamus declaring the action of the respondents in directing the petitioner to surrender/deliver possession of the house bearing No.10-2-24/26/2 situated at Alibagh, Hyderabad, admeasuring 122 Sq.Yards, in pursuance of the notice dated 22.10.1994 issued by the 2nd respondent as illegal and arbitrary.

The case of the petitioner is that he is the absolute owner of the house in land admeasuring 122 sq.yards equal to 102 sq.mts., bearing municipal registration No.19-2-24/26/2 (portion), situated at Alibagh, Kalapathar, Hyderabad, having purchased the same from its owner, under a registered sale deed in document No.524/90, who in turn purchased the same from Smt.Moina Begum under a registered sale deed No.381/83. It is his further case that he has been in physical possession of the property ever since its purchase. While the matter stood thus, the 1st respondent issued notice under Section 10(5) of the Urban Land Ceiling and Regulation Act (for short 'the Act') directing the petitioner to surrender/deliver the possession of the said land to the Deputy Tahsildar of the 1st respondent office within 30 days of service of such notice. The main grievance of the petitioner is that he has not been served with any notice under Section 8(3) of the Act to submit any objections and without any order under Section 8 (4) of the Act, therefore, the notice issued under Section 10(5) of the Act is wholly unsustainable.

Heard both sides.

The only question that arises for consideration in this writ petition is as to whether the impugned notice issued under Section 10 (5) of the Act is sustainable.

Admittedly, in this case, no notice was issued under Section 8(3) of the Act, and no order was served under Section 8 (4) of the Act before issuance of the impugned notice under Section 10(5) of the Act. No doubt, the petitioner has got a remedy of appeal to raise all these objections under Section 33 of the Act.

Hence, the writ petition is allowed and the impugned notice dated 22.10.1994, issued under Section 10(5) of the Act is set aside. Since no order under Section 8 (4) of the Act was served on the petitioner, the respondents are directed to serve a copy of the same to the petitioner expeditiously, in order to enable him to avail alternative efficacious remedy of appeal to raise all objections, which shall be considered by the appellate authority. On receipt of the same, the petitioner shall file an appeal before the appellate authority under Section 33 of the Act within a period of thirty days therefrom. It is needless to mention that till the entire exercise, as directed above, is completed, the respondents shall not proceed to take any steps in respect of the property in question without following the due process of law. There shall be no order as to costs.

09.06.2005

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Copy To:

- 1 The Principal Secretary, Government of A.P., Revenue Department, Secretariat Buildings, Hyderabad.
- 2 The Special Officer & Competent Authority,
Urban Land Ceilings, Hyderabad.
3. Two CCs to GP for Revenue, High Court Buildings, Hyderabad (OUT).

4. Two CD copies.